

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WISCONSIN**

ESTATE OF MICHAEL EDWARD BELL, by
Special Administrator Michael Martin Bell,
KIM MARIE BELL, MICHAEL MARTIN BELL,
and SHANTAE BELL,

Plaintiffs,

Civil Action No. 05-C-1176

v.

OFFICER ERICH R. STRAUSBAUGH,
OFFICER ERICH S. WEIDNER,
LIEUTENANT DAVID H. KRUEGER,
OFFICER ALBERT B. GONZALES,
KENOSHA POLICE DEPARTMENT,
CITY OF KENOSHA,

Defendants.

**AFFIDAVIT AND STATEMENT PURSUANT TO CIVIL L.R. 37.1
OF PATRICK O. DUNPHY**

STATE OF WISCONSIN)
) SS.
COUNTY OF WAUKESHA)

1. I am an attorney at law and partner at the law firm of Cannon & Dunphy, S.C., one of the attorneys retained to represent the plaintiffs. I make this Affidavit in support of Plaintiffs Estate of Michael Edward Bell, Kim Marie Bell, Michael Martin Bell, and Shantae Bell's Motion For A Protective Order Pursuant To Rule 26(c)(5) To Sequester Defendants.

2. Attached hereto and incorporated herein as Exhibit 1 is the Kenosha Police Department Policy and Procedure Manual, Subject: Crime Scenes revised November 11, 2003.

3. Attached hereto and incorporated herein as Exhibit 2 is Lt. Thomas Vieth Kenosha Police Department Supplementary Report dated November 11, 2004.

4. Attached hereto and incorporated herein as Exhibit 3 is Erich R. Strausbaugh Kenosha Police Department Statement dated November 9, 2004.

5. Attached hereto and incorporated herein as Exhibit 4 is Report of the Kenosha County District Attorney Concerning the Officer Involved Shooting Death of Michael Bell.

6. Attached hereto and incorporated herein as Exhibit 5 is Erich S. Weidner Kenosha Police Department Statement dated November 9, 2004.

7. Attached hereto and incorporated herein as Exhibit 6 is David H. Krueger Kenosha Police Department Statement dated November 9, 2004.

8. Attached hereto and incorporated herein as Exhibit 7 is Albert B. Gonzales Kenosha Police Department Statement dated November 9, 2004.

9. On January 26, 2006, at 9:00 a.m., I attended a Rule 26(f) conference at Gunta & Reak, S.C., 219 North Milwaukee Street, Milwaukee, Wisconsin, 53202-5818. Also present at the conference was the defendants' counsel Attorney Kevin Reak. At the conference, I discussed with Attorney Reak, among other things, whether he would allow me to depose the defendant police officers separately. Attorney Reak said he would get back to me on this matter.

10. Attached hereto and incorporated herein as Exhibit 8 is the Joint Rule 26(f) Report dated January, 26, 2006.

11. Attached hereto and incorporated herein as Exhibit 9 is Kevin P. Reak Correspondence dated February 16, 2006.

12. Attached hereto and incorporated herein as Exhibit 10 is Patrick O. Dunphy Correspondence dated February 24, 2006.

13. After consultation with Attorney Reak and after sincere attempts to resolve differences, the parties are unable to reach an accord.

14. Attached hereto and incorporated herein as Exhibit 11 is Defendants' Rule 26(a)(1) Initial Disclosures dated February 28, 2006.

Executed at Brookfield, Wisconsin this 3rd day of March, 2006.

s/ Patrick O. Dunphy
Patrick O. Dunphy, Affiant

Subscribed and sworn to before
me this 3rd day of March, 2006.

s/ Tena M Melton
Notary Public, State of Wisconsin
My Commission expires: 12/30/07